



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ADRIAN CALDERONE
DILWORTH & BARRESE, LLP
333 EARLE OVINGTON BLVD.
UNIONDALE, NY 11553

COPY MAILED

AUG 30 2005

OFFICE OF PETITIONS

In re Application of
JOSHI

Application No. 10/617,165

Filed: July 8, 2003

Attorney Docket No. 1302-49

DECISION
ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 14, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to a Notice to File Missing Parts of Nonprovisional Application mailed October 3, 2003, which set a period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 4, 2003.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a properly executed declaration and the late declaration surcharge fee of \$130; (2) the petition fee of \$1500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice to File Missing Parts of Nonprovisional Application of October 3, 2003 is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The power attorney combined with declaration is considerable acceptable. 37 CFR 1.32(c) states "[a] power of attorney may only name as representative: (1) One or more joint inventors (§ 1.45); (2) Those registered patent practitioners associated with a Customer Number; (3) Ten or fewer registered patent attorneys or registered patent agents[.]" While the power of attorney lists more than ten patent attorneys or registered patent agents and does not comply with 37 CFR 1.32(c)(3), the power of attorney also includes a Customer Number, which complies with 37 CFR 1.32(c)(2). As such, the patent practitioners associated with Customer Number 28239 are being made of record.

Telephone inquiries concerning this decision should be directed to Denise Pothier at (571) 272-4787.

The application matter is being forwarded to Office of Initial Patent Examination.



Frances Hicks
Petitions Examiner
Office of Petitions